EXHIBIT 6

2:17-cv-00194-kjd Document 140-8 Filed 03/06/20 Page 2 of 6

Leslie DeMars CONFIDENTIAL - October 23, 2019

1	1	Original Nation of Domonition of Loglic
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT	1	Original Notice of Deposition of Leslie
Case No. 5:17-cv-194		DeMars and Amended Notice of Deposition
MISTY BLANCHETTE PORTER, M.D.,		of Leslie DeMars 6
Plaintiff	2	Subpoena to Testify at a Deposition
vs. DARTMOUTH-HITCHCOCK MEDICAL CENTER,		in a Civil Case 7
DARTMOUTH-HITCHCOCK CLINIC,	3	Letter, Birkmeyer and Compton to
MARY HITCHCOCK MEMORIAL HOSPITAL, and DARTMOUTH-HITCHCOCK HEALTH,		Leslie DeMars, DH13075-13082 9
	4	Notice of Subpoena to Leslie DeMars,
Defendants.		4/3/18 15
	. 5	Notice of Subpoena to Leslie DeMars,
COMEINENTIAL		6/11/19 15
CONFIDENTIAL	6	Excerpt of Deposition of Joanne
DEPOSITION OF LESLIE DeMARS		Conroy, 9/18/19 24
taken on behalf of the Plaintiff at Norwich, Vermont, on October 23, 2019, at 9:00 a.m.,	7	Email string, DeMars and David Seifer,
before Cynthia Foster, Registered Professional		9/8/17 DH0011349 25
Reporter.	8	Text messages between Leslie DeMars and
		Misty Porter, DEMARS000001-87 41
		· · · · · · · · · · · · · · · · · · ·
	9	Email string, DeMars and Porter and
		McBean, DH0021243-44 59
	10	Email string, Porter and DeMars re
2		
APPEARANCES:	11	Email, McBean to DeMars, 7/28/2016,
Geoffrey Judd Vitt, Esquire Sarah Nunan, Esquire		DH0025543-44 71
Julia Korkus, Paralegal Vitt & Associates, PLC	12	Email, Seguin to DeMars, 7/28/2016,
8 Beaver Meadow Road		DH0011269-70 96
P.O. Box 1229 Norwich, Vermont, 05055, on behalf of the	13	Email, DeMars to Padin, DH0021261-62
Plaintiff, Misty Blanchette Porter, M.D., also present.	14	Excerpt from deposition of Ed Merrens 109
Katherine Burghardt Kramer, Esquire	15	•
KBK Law 6 Mill Street	13	Email, DeMars to Padin, 5/12/2016,
P.O. Box 23 Middlebury, Vermont, 05753, on behalf of the	1	re DS and credentialing, DH0021253
Plaintiff, Misty Blanchette Porter, M.D., also	16	Chat with Richard Reindollar,
present. Donald W. Schroeder, Esquire		DeMars0000101-102 111
Foley & Lardner, LLP 111 Huntington Avenue, Suite 2500	17	Email, Porter to DeMars re confidential
Boston, Massachusetts, 02199-7610, on behalf of the Defendants, Dartmouth-Hitchcock Medical		review, 2/20/2017, DH0025077-79 115
Center, Dartmouth-Hitchcock Clinic, Mary	18	Email, Todd to DeMars re confidential
Hitchcock Memorial Hospital, and Dartmouth-Hitchcock Health.		review, 2/21/2017, DH0025437-42
	19	Email, Gunnell to DeMars re confidential
		review, 2/24/2017, DH0025441-42
	20	Email string, Gunnell to Herrick, DeMars,
		re: REI/IVF Action Plan, 4/19/2017,
		DH0009582-83 with attachments 159
	1	
	21	Email, DeMars to Strohbehn, et al,

		41			43
1		Dartmouth-Hitchcock in order to participate in	1		messages where you refer to "Misty magic." Do
2		retrievals and transfers and very specific IVF	2		you recall using that term?
3		procedures.	3	A	Absolutely.
4	. Q	•	4	Q	What did you mean by that?
5	À	Those would be things that the residents would	5	À	Misty, Misty is an amazingly gifted and
6		not be performing.	6		dedicated reproductive endocrinologist and
7	Q	Right. Back to this issue of people losing	7		infertility specialist who I think through
8	~	respect, did you mention Daniel Herrick, was he	8		technical skill and creativity was able to
9		one of the ones?	9		achieve lots of desired pregnancies for women,
10	Α	No.	10		and that's her "Misty magic."
11			11	0	· -
	Q	Let me mark as Exhibit 8, these are the text	1	Q	Was she also skilled at reading ultrasounds?
12		messages between you and Dr. Porter.	12	Α	I think that she is skilled at reading
13	_	(Exhibit 8 marked for identification)	13		ultrasounds.
14	Q	•	14	Q	She also for a number of years did benign
15		Porter.	15		surgery, correct?
16	Α		16	Α	Yes.
17	Q	And in what context? How did you two come to	17	Q	Was she a talented surgeon?
18		meet?	18	Α	Some things, yes.
19	Α	Both of us joined the department at	19	Q	You mean for certain
20		approximately the same time as junior faculty.	20	Α	For certain procedures, yes.
21	Q	Did you and she have a working relationship	21	Q	What procedures?
22		before you became Chair?	22	A	I think for infertility-related procedures such
23	Α		23		as intrauterine resections, hysteroscopic
24	Q		24		resections.
25	•	committees and boards together?	25	Q	Any others?
		4.2		***************************************	4.4
		42		***************************************	4 4
1	A	We were both examiners for the American Board of	1	A	When Misty and I did procedures together, it was
1 2			1 2	A	When Misty and I did procedures together, it was always something that I looked forward to doing
		We were both examiners for the American Board of		A	When Misty and I did procedures together, it was
2	Q	We were both examiners for the American Board of Obstetrics and Gynecology.	2	A	When Misty and I did procedures together, it was always something that I looked forward to doing
2	Q	We were both examiners for the American Board of Obstetrics and Gynecology. And who nominated Dr. Porter to be a board	2 3	A Q	When Misty and I did procedures together, it was always something that I looked forward to doing because we would problem-solve together, and we
2 3 4	Q	We were both examiners for the American Board of Obstetrics and Gynecology. And who nominated Dr. Porter to be a board examiner? Would that have been you?	2 3 4		When Misty and I did procedures together, it was always something that I looked forward to doing because we would problem-solve together, and we would learn from one another.
2 3 4 5	Q A Q	We were both examiners for the American Board of Obstetrics and Gynecology. And who nominated Dr. Porter to be a board examiner? Would that have been you? I don't remember.	2 3 4 5		When Misty and I did procedures together, it was always something that I looked forward to doing because we would problem-solve together, and we would learn from one another. Could I ask you to look at so the pages are numbered both at the bottom and in the upper
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		69			71
1		mean, Misty had to really teach him how to do an	1		Mischaracterizes her testimony.
2		embryo transfer, had to be with him coaching him	2	Q	Is that what you're telling me?
3		on egg retrievals, had to go through cycle	3	Ā	I think that that the opinions were influenced
4 .		management with him, that it was an enormous	4		by Dr. Porter's opinions.
5		amount of work that Misty took on.	5	Q	Didn't Dr. McBean tell you that Albert Hsu in
6	Q		6	V	the OR presented a risk to patient safety?
7	V	well be unsalvageable." Those are sharp terms,	7	٨	I think that she would have no basis for that
8		right?	8	Α	opinion.
9	Α		9	0	1
10	А			Q	Do you recall receiving that opinion from her?
11		really good example of my putting a lot of	10	A	Not specifically.
		weight into what Misty says and a lot of weight	11	Q	Let me show it to you.
12		into my friendship with Misty and then having to	12		We'll mark as 11 an exhibit that has been
13		go and either verify or refute the comments that	13		marked Exhibit 12 during the deposition of Ed
14		she makes. I had concerns about Albert because	14		Merrens.
15		he came from a training program that didn't	15		(Exhibit 11 marked for identification)
16		allow him to do technical procedures. He's an	16	Q	Are you ready?
17		incredibly smart guy, but if he couldn't put the	17	A	Yes.
18		technical procedures into the right context and	18	Q	Do you know Dr. McBean?
19		if he could not do so in a fashion that would	19	Α	Yes.
20		allow him to pass his boards, he could not	20	Q	How long have you known her?
21		continue as a faculty member at D-H.	21	Α	We were medical students together.
22	Q	Correct me if I'm wrong, but the way I read this	22	Q	You think she's competent?
23		February 18, 2017, email you are taking the	23	A	Yes.
24		position that it's your opinion that he might	24	Q	She writes in her message to you of February 22,
25		well be unsalvageable. By that, you mean he	25		"Albert does not have an adequate skill set with
		70			72
					12
1		couldn't continue to perform his job at	1		regard to surgery and patient care. He
1 2		couldn't continue to perform his job at Dartmouth-Hitchcock, right?	1 2		
					regard to surgery and patient care. He
2		Dartmouth-Hitchcock, right?	2		regard to surgery and patient care. He regularly practices outside of ARSM standards
2	A	Dartmouth-Hitchcock, right? MR. SCHROEDER: Objection.	2 3		regard to surgery and patient care. He regularly practices outside of ARSM standards with the regard to IVF which is both effective
2 3 4	A Q	Dartmouth-Hitchcock, right? MR. SCHROEDER: Objection. Mischaracterizes her testimony.	2 3 4		regard to surgery and patient care. He regularly practices outside of ARSM standards with the regard to IVF which is both effective and costly to patients. His surgical skills
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18 (Pages 69 to 72)

		109			111
1		made at the leadership level that had	1		didn't do IVF?
2		implications for your place in the organization?	2	Α	I answered that before. I mean, again, IVF does
3	Α	No.	3		not equal REI, and there's consultations to be
4	. Q	Okay. I'm going to mark as Exhibit 14 a series	4		done, evaluation of women with reproductive
5		of pages from Ed Merrens' testimony, deposition	5		endocrinologic disorders. There were still
6		testimony, and they're not consecutive because	6		ultrasounds to be read.
7		there are only a few things I want to ask you	7	Q	Was that work that Albert Hsu was capable of
8		about, and I think I provided sufficient context	8		performing?
9		in each time so that you can understand both the	9	Α	Yes.
10		question that was asked and Dr. Merrens'	10	Q	I'm going to mark as Exhibit 16 a two-page
11		response.	11		document that was marked as Exhibit 4 during the
12		(Exhibit 14 marked for identification)	12		Merrens deposition. It's DEMARS0000101 and 102.
13	Q	I've given you what's been marked as Exhibit 14.	13		(Exhibit 16 marked for identification)
14		If you could go to page 83, please.	14	Q	Does this exhibit include texts between yourself
15		Do you agree that what Dr. Merrens has	15		and Richard Reindollar?
16		provided there is a accurate summary of what the	16	Α	Yes, it does.
17		committee said to you?	17	Q	And again, you're the Birthgiver?
18	Α	No.	18	Á	I am Birthgiver.
19	Q	In what respect do you disagree?	19	Q	Yes, okay. And you begin by saying, "Richard,
20	Α	What Dr. Merrens said was you are responsible	20		I'm not sure that DS," that's David Seifer,
21		for Dr. Seifer and his success here. He did not	21		correct?
22		elaborate further. He did not hold out that it	22	Α	Yes.
23		had consequences for my position as Chair.	23	Q	"Is clinically competent. I don't know what
24	Q	Okay. How did that make you feel when he told	24		he's been doing for 25 years, but I'm not sure
25		you that it was your responsibility to ensure	25		it was IVF." And then you go on later on to
1		his success?	1		say, "I have heard separately voiced concerns
2	Α	It was a challenge that I had no alternative but	2		from nursing, anesthesia and ultrasound techs.
3		to take because I had no other options.	- 3		The lab folks complain about bloody aspirates
4	Q	J 1	4		and low egg counts."
5		responsibility on your back?	5		What caused you to write to Richard
6	A	Sure. Yes. I made the decision to hire him.	6		Reindollar and say I don't think he's clinically
7		Are we done with this one?	7		competent?
8	Q	For now. If you would just push it to one side,	8	A	· · · · · · · · · · · · · · · · · · ·
9		thank you.	9		that I am not attributing to her in this text.
10	A	Not in the "done" pile.	10	Q	, , , , , , , , , , , , , , , , , , , ,
11	Q	Right. You've got the drill down.	11		competent is her judgment?
12		I'm going to mark as Exhibit 15 what has	12	A	
13		been marked as Merrens Exhibit 3. It's a May	13	Q	
14		12, 2016, email from Dr. DeMars to Maria Padin.	14		anesthesia and ultrasound techs, that's
15	_	(Exhibit 15 marked for identification)	15		something that she heard and not you?
16	Q	Do you recall writing this email?	16	A	, , , , , , , , , , , , , , , , , , ,
17	A	Yes.	17	_	first egg retrieval.
18	Q	You say in here that if you can't get or can't	18	Q	
19		hire Dr. Seifer that you will have to shut the	19		about bloody aspirates and low egg counts.
20 21		REI program down, correct?	20		That's something that she heard and not you?
/ 1	A	The IVF program.	21	A	
	Q	Oh, the program you're going to shut down is IVF?	22	Q	
22		IVE/	23		information that you put in these texts to
22					
22	A Q	Yes. So what would the REI Division look like if it	24 25	A	Richard Reindollar?

1 Q So tell me what he told you about this 2 situation. 3 A The ultrasound tech told me that he wanted to do 4 a tubal patency test on a patient. It was not 5 scheduled. She told him that he couldn't do it 6 and they didn't do it. That's my understanding 7 of the situation. 8 Q And this happened one time. 9 A Yes. 9 Q Is that the right term? Contracting the service. 10 Q Okay. Do you have the Merrens testimony there? 11 Page 120. Line 2. He's been shown the exhibits 12 that you have in front of you there. The 13 assessments that we've been discussing? And Dr. 14 Merrens says that those documents 15 MR. SCHROEDER: Let her read if you want 16 to ask her about page 120, just let her read it. 17 MR. VITT: Oh, I'm sorry. Sure. 18 Q Okay. Do you agree with Dr. Merrens that these 19 A Sk that question again, please?			125			127
2 A No. 3 Q How do you know what she's referring to there? 4 A Because it is the same situation that was — 5 Q How do you know that? 6 there werent five times that they performed 7 unbal patency exams on a woman without consent? 8 How do you know that? 9 A Because I addressed it with Albert. I addressed 10 the issue with the ultrasound tech, I addressed 11 it with Albert. There to be confident that 12 Albert is not going behind my back. 13 Q What did you say to Albert? I didn't realize 14 you spoke to him about it. 15 A In clarifying his role of what is he doing when he is doing ultrasounds. Clarifying his 16 he is doing ultrasounds. Clarifying his 17 learning doing tubal patency tests, and 18 clarifying on what patients he is doing those, happen. 20 happen. 21 Q Did he or did he not have the consent of the patient for this tubal patency examination? 22 patient for this tubal patency examination? 23 A It didn't happen. 24 Q He didn't do it. 25 A No. 126 1 Q So tell me what he told you about this situation. 3 A The ultrasound tech hold me that he warned to do a tubal patency test on a patient. It was not scheduled. She told him that he couldn't do it and they didn't do it. That's my understanding of the situation. 3 A Yes. 4 Q Okay. Do you have the Merrens testimony there? 4 A Yes. 5 Q Didy out talk to bim about any of these in the exhibits in front of you? 4 A No. 5 Ory. Ed Merrens. 6 A No. 6 A No. 9 When were the first discussions about the Committee and said this is on you. 9 What did you say to Albert? I didn't realize possibility of closing the RED lossing the RED lo	1		answered.	1		surprise me at all.
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20 levels. Technical skill, standard of care, 20 Q Sure. I'm just trying to figure out who were	20			}	Q	
21 approach to patients, collaboration with a team 21 the parties, who were the individuals, who were	l .			1		
22 and overall vision. Do you agree with that? 22 having discussions about the possibility of				l .		
23 A I think if he were seeing this out of context, 23 contracting the services to be provided by the	23	Α	I think if he were seeing this out of context,	23		contracting the services to be provided by the
			yes. My seeing these in the course of that	24		REI Division? And I thought it was Ed Merrens,
25 entire year that he was at D-H, this doesn't 25 Daniel Herrick, Heather Gunnell and yourself ar	25		entire year that he was at D-H, this doesn't	25		Daniel Herrick, Heather Gunnell and yourself and